

SENATE BILL 1298

By Ford, O.

AN ACT to amend Tennessee Code Annotated, Title 2,
Chapter 17, Part 1, relative to election contest for
offices of general assembly members.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 2-17-102, is amended by deleting the section in its entirety and by substituting instead the following:

§ 2-17-102.

(a) Contests for the office of representative in the general assembly are decided by the house of representatives.

(b) Contests for the office of senator in the general assembly are decided by the senate and shall be conducted in accordance with the following procedures:

(1) A complaint contesting an election for the office of senator shall be filed with the chief clerk of the senate within ten (10) days after the election results are certified.

(2) Within ten (10) days after the date the complaint is filed, the chief justice of the supreme court, acting in consultation with the attorney general and reporter, shall appoint an active or retired state judge to serve as special master of the election contest. It shall be the duty of the special master to expeditiously, thoroughly and objectively investigate, analyze and evaluate the merits of the complaint. The attorney general and reporter may intervene for the state's interest in the election contest but shall represent neither the complainant nor the certified winner of the contested election.

(3) Within fifty (50) days after the date the complaint is filed, the special master shall conduct one (1) or more public proceedings for the purpose of

receiving and examining oral and written testimony and documentary evidence. Additionally, the special master shall undertake such other proceedings and activities as is deemed necessary and appropriate in order to perform the duties assigned by this subsection (b).

(4) Consistent with requirements of due process, fairness and factual accuracy, the special master shall strive to submit a written final report of findings and recommendations, including the record of proceedings and activities as well as documentary evidence received, to the chief clerk of the senate no later than the convening date of the senate's organizational session, or as soon thereafter as is reasonably practicable.

(5) The special master's recommendations to the senate shall include one (1) of the following:

(A) That the certified election results be confirmed;

(B) That the election be declared void;

(C) That a tie be declared between persons who have the same number of votes if it appears that two (2) or more persons who have the same number of votes have, or would have had if the ballots intended for them and illegally rejected had been received, the highest number of votes for the office; or

(D) That a person be declared as duly elected if it appears that such person received or would have received the highest number of votes had the ballots intended for the complainant and illegally rejected been received

(6) At the convening of the senate in organizational session, the certified winner of the contested election shall take the oath of office and shall be

provisionally seated as a senator pending final action by the senate to decide the election contest.

(7) After the final report is filed with the chief clerk, the full membership of the senate shall meet in floor session for the purpose of receiving an oral summary of the special master's report. At the conclusion of the special master's presentation, the complainant or the complainant's counsel or both, shall be permitted to offer remarks to the membership of the senate and to respond to questions; and then the provisionally-seated member or the member's counsel or both, shall likewise be permitted to offer remarks to the membership of the senate and to respond to questions. The membership of the senate shall then vote to adopt, as its own action, the findings and recommendations of the special master or shall vote to reject the findings and recommendations of the special master. Alternatively, the membership may elect to delay to a date certain the senate's vote upon the special master's findings and recommendations.

(8) If the findings and recommendations of the special master are rejected, then the senate shall proceed to appropriately and expeditiously decide the election contest, consistent with requirements of due process, fairness and factual accuracy.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.